

LPDES PERMIT NO. LA0004898, AI NO. 17227**LPDES STATEMENT OF BASIS**

FOR THE DRAFT LOUISIANA POLLUTANT DISCHARGE ELIMINATION SYSTEM
(LPDES) PERMIT TO DISCHARGE TO WATERS OF LOUISIANA

COMPANY/FACILITY NAME: Freeport McMoRan Energy, LLC (formerly Freeport-McMoRan Sulphur LLC)
Port Sulphur Operations
1615 Poydras Street
New Orleans, Louisiana 70112

ISSUING OFFICE: Louisiana Department of Environmental Quality (LDEQ)
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313

PREPARED BY: Paula M. Roberts
Water Permits Division
Phone: (225)219-3086
E-mail: paula.roberts@la.gov

DATE PREPARED: February 20, 2009

I. PERMIT ACTION/STATUS:

Reason for Permit Action: Proposed Reissuance of a Louisiana Pollutant Discharge Elimination System (LPDES) permit for a 5-year term following regulations promulgated at LAC 33:IX.2711/40CFR 122.46.

In order to ease the transition from NPDES to LPDES permits, dual regulatory references are provided where applicable. The LAC references are the legal references while the 40 CFR references are presented for informational purposes only. In most cases, LAC language is based on and is identical to the 40 CFR language. 40 CFR Parts 401, 405-415, and 417-471 have been adopted by reference at LAC 33:IX.4903 and will not have dual references. In addition, state standards (LAC 33:IX Chapter 11) will not have dual references.

LAC 33:IX Citations: Unless otherwise stated, citations to LAC 33:IX refer to promulgated regulations listed at Louisiana Administrative Code, Title 33, Part IX.

40 CFR Citations: Unless otherwise stated, citations to 40 CFR refer to promulgated regulations listed at Title 40, Code of Federal Regulations in accordance with the dates specified at LAC 33:IX 4901, 4903, and 2301.F.

A. LPDES permit: Effective date – October 1, 2003
Expiration date – September 30, 2008

B. Minor Modification permit: Issue date – November 24, 2003
Effective date – December 1, 2003
Expiration date – September 30, 2008

Minor Modification permit: Issue date – December 1, 2003
Effective date – December 1, 2003
Expiration date – September 30, 2008

C. Date Application Received: A renewal application was received on April 2, 2008.

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II. FACILITY INFORMATION:

A. LOCATION FACILITY- 28310 Highway 23, in Port Sulphur, Plaquemines Parish
(Latitude 29°28'28", Longitude 89°41'17")

B. TYPE/ACTIVITY – Sulphur Processing, Shipping/Receiving

This applicant has elected to permanently discontinue operations at its Port Sulphur location as a result of the significant damage to the facilities and the infrastructure of lower Plaquemines Parish by Hurricane Katrina in August 2005. They plan to close the entire facility including the Vat Storage Area and the Vat Drainage Reservoir. No processing activities have taken place since prior to the hurricane. However, they have requested renewal of the permit as is without any modifications concerning closure activities.

Currently, no closure plans have been initiated, although pre-closure activities have been conducted including the removal of all process structures, building and docks. Closure of the vat area will be conducted once the final closure plan is approved. Completion of closure activities is estimated for a period of 24 months from the start of the project.

Prior to August 2005, the applicant operated a bulk sulphur processing, shipping and receiving terminal. Sulphur processing consisted of heating molten sulphur with industrial boilers. Once the sulphur had been processed and cooled, it was stored in open-air bulk vats. The facility's wastewater came from boiler blowdown and condensate that is discharged from the facility's steam traps. Process area stormwater was also collected and treated with the utility wastewater by mixing it with Mississippi River water to control pH.

C. Technology Basis – 40 CFR Chapter I, Subchapter N (Effluent Guidelines and Standards) parts 401, 405-415 and 417-471 have been adopted by reference at LAC 33:IX.4903.

Guidelines

None

Reference

N/A

Other Sources of Technology Based Limits:

Current LPDES Permit (effective December 1, 2003)

LDEQ Stormwater Guidance [letter dated June 17, 1987, from J. Dale Givens (LDEQ) to Myron Knudson (EPA)]

Best Professional Judgment

D. FEE RATE

1. Fee Rating Facility Type: Minor
2. Complexity Type: II*
3. Wastewater Type: III
4. SIC code: 5052, 1479

* SIC Code 1479 is not listed in the SIC Code Complexity Table. A related SIC Code of 1477 (Mining of Nonmetallic Minerals-Sulfur) has a complexity of III but involves mining operations not associated with this facility. This facility has been assigned type II based upon BPJ. Specifically, it is based on SIC 5161 (Chemical Bulk Storage and Distribution) and SIC (Inorganic Chemical Manufacturing-Sulfuric acid). Both involve similar operations

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or associated pollutants and both have a complexity designation of II. There are no toxic pollutants associated with this facility's discharges; the primary contaminants are sulfates and low pH.

III. RECEIVING WATERS:

STREAM – Outfall 001-directly into the Mississippi River

Outfall 002- directly into the Mississippi River and Bay Lanoux

Outfall 004- open ditch, thence into Plaquemine Parish drainage canal, thence into the marsh

Internal Outfall 101 – effluent pipe, thence into the vat drainage blending system which commingles with Outfall 001 and leaves the site from Outfall 001

BASIN AND SUBSEGMENT

Outfall(s) 001 and 002- Mississippi River, Subsegment No. 070301

Outfall 004 – Barataria Basin, Subsegment No. 021001

DESIGNATED USES for Subsegment 070301

- a. primary contact recreation
- b. secondary contact recreation
- c. fish and wildlife propagation
- d. agriculture
- e. drinking water supply

DESIGNATED USES for Subsegment 021001

- a. primary contact recreation
- b. secondary contact recreation
- c. fish and wildlife propagation
- d. oyster propagation

IV. OUTFALL INFORMATION:Outfall 001

Discharge Type: the continuous discharge of treated process wastewater (boiler blowdown, water softening blowdown and filtered backwashes) pumped from the power plant and previously monitored treated stormwater runoff from Internal Outfall 101, after it is combined with Mississippi River water in the blending pumps chamber to increase the pH

Treatment: pH neutralization with Mississippi River water

Location: At the point of discharge from the river dock (#3 tower blending pump chambers, prior to combining with other waters (Latitude 29°8'25", Longitude 89°41'17")

Flow: Intermittent – 16.75 MGD

Discharge Route: directly into the Mississippi River

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Internal Outfall 101

Discharge Type: the continuous discharge of process wastewater (boiler blowdown, water softening blowdown and filtered backwashes) pumped from the power plant and treated stormwater runoff

Treatment: None

Location: vat drainage reservoir pump discharge line (Latitude 29°28'07", Longitude 89°41'14")

Flow: Continuous – 0.25 MGD

Discharge Route: effluent pipe, thence into the vat drainage blending system, thence commingles with Outfall 001 and is discharged from Outfall 001

Outfall 002

Discharge Type: the continuous discharge of steam trap condensate

Treatment: None

Location: At the point of discharge from the steam traps at various locations (Latitude 29°28'22", Longitude 89°41'03")

Flow: Continuous – 0.01 MGD

Discharge Route: directly into the Mississippi River and Bay Lanoux

Outfall 004

Discharge Type: intermittent discharge of non-contact process area stormwater runoff

Treatment: None

Location: At the point of discharge from the fence line adjacent to the golf course (Latitude 29°28'07", Longitude 89°41'07")

Flow: Intermittent – variable

Discharge Route: open ditch, thence into Plaquemine Parish drainage canal, thence into the marsh

V. PROPOSED CHANGES from PREVIOUS PERMIT:

- A. A reopener clause has been added to Part II of the draft permit in the event that the permit requires reassessment regarding 303(d) status resulting in cooperation of the results of any Total Maximum Daily Load (TMDL) allocation for the receiving water body.

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- B. Updated Part II conditions for stormwater discharges associated with industrial activities have been established in the draft permit.

VI. PERMIT LIMIT RATIONALE:

Outfall 001 – continuous discharge of treated process wastewater (boiler blowdown, water softening blowdown and filtered backwashes) pumped from the power plant and previously monitored treated stormwater runoff from Internal Outfall 101, after it is combined with Mississippi River water in the blending pumps chamber to increase the pH

Parameter	Monthly Average	Daily Maximum	Monitoring Frequency	Sample Type	Reference
Flow	Report	Report	1/week	Estimate	Current permit and LAC 33:IX.2701.1.1.b
pH (excursions >60 min.)	0	---	Continuous	Recorder	BPJ and current LPDES permit
pH (total time outside range)	446 min.	---	Continuous	Recorder	BPJ and current LPDES permit
pH	6.0 S.U. (min)	9.0 S.U. (max)	Continuous	Recorder	Current LPDES permit and LAC 33:IX.1113.C.1

Internal Outfall 101 – continuous discharge of process wastewater (boiler blowdown, water softening blowdown and filtered backwashes) pumped from the power plant and treated stormwater runoff

Parameter	Monthly Average	Daily Maximum	Monitoring Frequency	Sample Type	Reference
Flow	Report	Report	1/week	Estimate	Current LPDES permit and LAC 33:IX.2701.1.1.b
TSS	50 mg/l	100 mg/L	1/month	Grab	BPJ and Current LPDES permit
Oil & Grease	10 mg/l	15 mg/L	1/month	Grab	BPJ and Current LPDES permit

Outfall 002 – continuous discharge of steam trap condensate

Parameter	Monthly Average	Daily Maximum	Monitoring Frequency	Sample Type	Reference
Flow	Report	Report	1/month	Estimate	Current LPDES permit and LAC 33:IX.2701.1.1.b
Visible Sheen	N/A	None	1/month	Observation	BPJ and Current LPDES permit

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Outfall 004 – intermittent discharge of non-contact process area stormwater runoff

Parameter	Monthly Average	Daily Maximum	Monitoring Frequency	Sample Type	Reference
Flow	Report	Report	1/month	Estimate	Current LPDES permit and LAC 33:IX.2701.I.1.b
TOC	N/A	50 mg/L	1/month	Grab	BPJ and Current LPDES permit
Oil & Grease	N/A	15 mg/L	1/month	Grab	BPJ and Current LPDES permit
pH	6.0 S.U. (min)	9.0 S.U. (max)	1/month	Grab	Current LPDES permit and LAC 33:IX.1113.C.1

VII. TMDL WATERBODIES:

The discharge from Outfall(s) 001 and 002 flows directly into the Mississippi River in Subsegment No. 070301 of the Mississippi River Basin. Subsegment 070301, Mississippi River-From Monte Sano Bayou to Head of Passes is listed on LDEQ's FINAL 2006 305(b)/303(d) Integrated Report with EPA Additions dated February 15, 2008 as fully supporting its designated uses. Therefore, there are no impairments of concern and the inclusion of additional permit limitations in the permit to address any impairment is not necessary.

Subsegment 021001, Bastian Bay, Adams Bay, Scoffield Bay, Coquette Bay, Tambour Bay, Spanish Pass and Bay Jacques (Estaurine) is listed on LDEQ's FINAL 2006 305(b)/303(d) Integrated Report with EPA Additions dated February 15, 2008 as fully supporting its designated uses. Therefore, there are no impairments of concern and the inclusion of additional permit limitations in the permit to address any impairment is not necessary.

However, a reopener clause has been placed in Part II of the permit to allow for more stringent or additional limitations or requirements to be placed in the permit, if needed, as a result of the establishment of any future TMDLs.

VIII. COMPLIANCE HISTORY/DMR REVIEW:

A compliance history was done covering the period of March 2005 to June 2008.

A. A DMR review for the period beginning March 2006 through March 2008 revealed no excursions.

B. Inspections – According to EDMS and TEMPO, the last compliance inspection was done on May 8, 2001. However, four (4) incident reports were found related to Hurricane Katrina. The findings were basically the same. The facility is not operational. The plant suffered significant structural damage from Hurricane Katrina.

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- C. Compliance History - There are no open, appealed, or pending enforcement actions for this facility.

IX. ENDANGERED SPECIES:

The receiving waterbody, Subsegment No. 070301 of the Mississippi River Basin has been identified by the U. S. Fish and Wildlife Service (FWS) as habitat for the Pallid Sturgeon, which is listed federally as a threatened species. However, this is a permit, for a minor discharge, that will not contain limitations for the substances listed in Section II.2 of the Implementation Strategy. Therefore, consultation with the Service is not required. This strategy was submitted with a letter dated November 17, 2008 from Rieck (FWS) to Nolan (LDEQ). Therefore, in accordance with the Memorandum of Understanding between the LDEQ and the FWS, no further informal (Section 7, Endangered Species Act) consultation is required. The effluent limitations established in the permit ensure protection of aquatic life and maintenance of the receiving water as aquatic habitat. Therefore, the issuance of the LPDES permit is not likely to have an adverse effect on any endangered or candidate species or the critical habitat.

The receiving waterbody, Subsegment No. 021001 of the Barataria Basin has not been identified by the U.S. Fish and Wildlife Service as habitat for any endangered species. This type of discharge is not listed in Section II.2 of the Implementation Strategy as requiring consultation with the U.S. Fish and Wildlife Service (FWS). This strategy was submitted with a letter dated November 17, 2008 from Rieck (FWS) to Nolan (LDEQ). Therefore, in accordance with the Memorandum of Understanding between the LDEQ and the FWS, no further informal (Section 7, Endangered Species Act) consultation is required. The effluent limitations established in the permit ensure protection of aquatic life and maintenance of the receiving water as aquatic habitat. Therefore, the issuance of the LPDES permit is not likely to have an adverse effect on any endangered or candidate species or the critical habitat.

X. HISTORIC SITES

The discharges are from an existing facility, which does not include an expansion on undisturbed soils. Therefore, there should be no potential effect to sites or properties on or eligible for listing on the National Register of Historic Places, and in accordance with the "Memorandum of Understanding for the Protection of Historic Properties in Louisiana Regarding LPDES Permits" no consultation with the Louisiana State Historic Preservation Officer is required.

XI. "IT" QUESTIONS – Applicant's Responses:

Freeport McMoRan Energy, LLC, Port Sulphur Operations is a minor facility; therefore, IT Questions were not required to be submitted.

XII. TENTATIVE DETERMINATION

On the basis of preliminary staff review, the Department of Environmental Quality has made a tentative determination to reissue a permit for the discharge described in the application.

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Upon publication of the public notice, a public comment period shall begin on the date of publication and last for at least 30 days thereafter. During this period, any interested persons may submit written comments on the draft permit and may request a public hearing to clarify issues involved in the permit decision at this Office's address on the first page of the fact sheet. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.

Public notice published in:

Local newspaper(s) of general circulation

Department of Environmental Quality Public Notice Mailing List

XIV. STORMWATER POLLUTION PREVENTION PLAN (SWP3) REQUIREMENT

A SWP3 is included in the permit since there is a potential for stormwater contamination from ancillary activities which include handling of lubricants and fuels.

For first time permit issuance, the SWP3 shall be prepared, implemented and maintained within six (6) months of the effective date of the final permit. For renewal permit issuance, the SWP3 shall be reviewed and updated, if necessary within six (6) months of the effective date of the final permit. The plan should identify potential sources of stormwater pollution and ensure the implementation of practices to prevent and reduce pollutants in stormwater discharges associated with industrial activity at the facility.

Subsidiary	Bay
Cemetery	
Populace	
School	
Ac. Acre	
Highway	
Suburb	
Types	
Re	
At Kansas	
At River	
Pipe, line	
Power, line	
Inst. firm	
Rel. firm	
Railroads	
Roadside	
Gas. pit	
Public	
Water, public	
Water, public	
Industrial area	
Ind. factory	
Industrial waste	
Area submerged	
Sewage disposal pond	
Swampy pond	
Wetland	
Ed. & machine	
Industrial fish	
Days, religious	
Shoal	
Gravel pit	
Canal lock	
Swamp	
Canal	
Channel	
Lake	
Reel	
Sand in water	
Spot area	
Submerged	
Notifiable	
?	